

### Subpart 909.1—Responsible Prospective Contractors

#### 909.104 Standards.

##### 909.104–1 General standards.

(h) For solicitations for contract work subject to the provisions of 10 CFR part 707, Workplace Substance Abuse Programs at DOE sites, the prospective contractor must agree, in accordance with 970.5223–3., Agreement Regarding Workplace Substance Abuse Programs at DOE Sites, to provide the contracting officer with its written workplace substance abuse program in order to be determined responsible and, thus, eligible to receive the contract award.

[57 FR 32675, July 22, 1992, as amended at 62 FR 42074, Aug. 5, 1997; 65 FR 81006, Dec. 22, 2000; 74 FR 36362, July 22, 2009]

##### 909.104–3 Application of standards.

(e) *Guaranteeing corporate entities.* The Department of Energy (DOE) may select an entity which was newly created to perform the prospective contract, including, but not limited to, a joint venture or other similarly binding corporate partnership. In such instances when making the determination of responsibility pursuant to 48 CFR 9.103, the contracting officer may evaluate the financial resources of other entities only to the extent that those entities are legally bound, jointly and severally if more than one, by means of a performance guarantee or other equivalent enforceable commitment to supply the necessary resources to the prospective contractor and to assume all contractual obligations of the prospective contractor. The guaranteeing corporate entity(ies) must be found to have sufficient resources in order to satisfy its guarantee.

[64 FR 16651, Apr. 6, 1999, as amended at 74 FR 36362, July 22, 2009]

### Subpart 909.4—Debarment, Suspension, and Ineligibility

SOURCE: 61 FR 39857, July 31, 1996, unless otherwise noted.

#### 909.400 Scope of subpart.

This subpart—

(a) Prescribes policies and procedures governing the debarment and suspension of organizations and individuals from participating in Department of Energy (DOE) contracts, procurement sales contracts, and real property purchase agreements, and from participating in DOE approved subcontracts and subagreements;

(b) Sets forth the causes, procedures, and requirements for determining the scope, duration, and effect of DOE debarment and suspension actions; and

(c) Implements and supplements FAR subpart 9.4 with respect to the exclusion of organizations and individuals from procurement contracting and Government approved subcontracting.

[61 FR 39857, July 31, 1996, as amended at 74 FR 36362, July 22, 2009]

#### 909.401 Applicability.

The provisions of this subpart apply to all procurement debarment and suspension actions initiated by DOE on or after the effective date of this subpart. Nonprocurement debarment and suspension rules are codified in 10 CFR part 1036.

#### 909.403 Definitions.

In addition to the definitions set forth at FAR 9.403, the following definitions apply to this subpart:

*Debarring and suspending official,* for the DOE, the designees are:

(1) *Debarring Official* means the Debarring Official for DOE contracts is the Director, Office of Procurement and Assistance Management, DOE, or designee. The Debarring Official for NNSA contracts is the Director, Office of Acquisition and Supply Management, NNSA, or designee.

(2) *Suspending Official* means the Suspending Official for DOE contracts is the Director, Office of Procurement and Assistance Management, DOE, or designee. The Suspending Official for NNSA contracts is the Director, Office of Acquisition and Supply Management, NNSA, or designee.

[69 FR 75003, Dec. 15, 2004, as amended at 74 FR 36362, July 22, 2009]